

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 99-1

SUMAS ENERGY 2, INC.

SUMAS ENERGY 2 GENERATION
FACILITY

NOTICE OF INTENT TO HOLD
ADJUDICATIVE PROCEEDING;
NOTICE FOR FILING PETITIONS FOR
INTERVENTION
NOTICE OF INTENT TO HOLD
PREHEARING CONFERENCE
(Deadlines to be announced later)

The Application:

On January 4, 1999, Sumas Energy 2, Inc. submitted Application No. 99-1 to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the Sumas Energy 2 Generation Facility. As proposed the project was a 720 megawatt natural gas-fired combustion turbine electrical generation facility located in Sumas, Washington. Associated with the project is a new 0.5 mile, 230 kilovolt, electrical transmission line to be constructed from the proposed facility to the Canadian border and a 5 mile, 16 inch, natural gas pipeline to be constructed adjacent to an existing natural gas pipeline that runs east and northeast from the project site to the Canadian border.

On January 3, 2000, Sumas Energy 2, Inc. submitted a revised application, also designated Application No. 99-1. Revisions to the proposal include reducing electrical generation from 720 to 660 megawatts, adding the ability to operate on diesel fuel as an alternative if natural gas is unavailable, changing the cooling system to a wet-dry cooling system, eliminating the importation of water from Canada, and changes to the configuration of the site.

More specific information about the project is available from EFSEC's office or from reviewing the application at public libraries in Sumas and Whatcom County. Information regarding the project is on EFSEC's Internet site at: <http://www.efsec.wa.gov>.

EFSEC is conducting an environmental review of the project and will soon be issuing a draft Environmental Impact Statement for public comment under the Washington State Environmental Policy Act. EFSEC will also conduct an examination of the project through a formal adjudicative proceeding.

Notice of Intention to Conduct an Adjudicative Proceeding.

The Council is reviewing Application No. 99-1 under the procedures set forth in Chapter 80.50 Revised Code of Washington (RCW) and Title 463 Washington Administrative Code (WAC) for reviewing applications for new major energy facilities. The statute requires the Council to hold

an adjudicative proceeding under Chapter 34.05 RCW, the Administrative Procedure Act. EFSEC intends to hold adjudicative hearings relating to Application No. 99-1 in accordance with the procedural rules found in Chapter 463-30 WAC.

Deadline for Submitting Petitions for Intervention.

The statutory parties to an adjudicative proceeding are the applicant, Sumas Energy 2, Inc., and the Counsel for the Environment (as defined in RCW 80.50.020(12)), Assistant Attorney General, Mary Barrett. According to WAC 463-30-050, any state agency that is a member of EFSEC may participate as a party. Any other person may petition to intervene as a party in this adjudicative proceeding under RCW 34.05.443, RCW 80.50.090, and WAC 463-30-400. The Council will consider the requests for intervention and determine whether or not to grant intervention.

An "intervenor," as defined in RCW 80.50.020(3), may be an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized. Any such "person" who wishes to participate in this proceeding may petition for intervention.

Each person admitted to an adjudicative proceeding as an intervenor is a party to the proceedings only for the purposes and subject to any limitations and conditions specified in the EFSEC order granting intervention.

In this case, the deadline for submitting requests for intervention will coincide with the deadline for submitting comments to the Draft Environmental Impact Statement.

Currently the exact date for issuance of the Draft Environmental Impact Statement is unknown, but it is anticipated it will be issued during March 2000. The comment period for the Draft Environmental Impact Statement will be thirty (30) days from the date it is issued. **A Notice of Deadline for Submitting Petitions for Intervention will be issued at a later date.**

How to Intervene

To be considered timely, Petitions for Intervention in Application No. 99-1 must be received in the offices of the Council no later than the close of business on the deadline set for such petitions. Petitions for Intervention will not be considered after that date except for good cause. A copy of each petition should be served on the Sumas Energy 2 and on the Counsel for the Environment at the time they are filed with the Council.

Petitions for Intervention must be filed with

Washington State Energy Facility Site Evaluation Council
Attn: Allen J. Fiksdal, EFSEC Manager
P.O. Box 43172
925 Plum Street SE
Olympia, WA 98504-3172

Persons wishing to intervene should consider relevant provisions of Chapter 463-30 WAC. In particular, WAC 463-30-400 establishes the following requirements for Petitions for Intervention:

All petitions to intervene shall be verified under oath by the petitioner, shall adequately identify the petitioner, and shall establish with particularity an interest in the subject matter and that the ability to protect such interest may be otherwise impaired or impeded.

In considering whether to file a petition to become an intervenor, potential parties should recognize that persons who are granted intervenor status assume responsibilities they must meet in order for the adjudicative process to be manageable for all participants. Intervenors are expected to appear in the proceeding, either on their own behalf or by an attorney. Intervenors must study other parties' cases so they can participate knowledgeably. They must decide whether to cross examine other parties' witnesses, and determine the nature and scope of the cross examination. Intervenors also have the responsibility either to attend the entire proceeding, including prehearing conferences, or to monitor it to learn when their interests will be at issue -- otherwise they may be bound by matters that are resolved in their absence. Intervenors have the responsibility to become familiar with the Council's procedural rules and guidelines to enable them to participate knowledgeably and effectively to advance their interests. Because of potential delay to the proceeding that could interfere with rights of the parties involved, the Council has a limited ability to instruct participants on procedural matters. Intervention is not a step to be approached casually. Becoming an intervenor in a Council adjudicative proceeding may require a significant commitment of time and financial resources.

To see examples of petitions for intervention that have been filed in previous EFSEC cases, you may contact the EFSEC office or Mary Barrett.

The Council requests that all member agencies who intend to participate as intervenors submit notice of that intention on or before the deadline for intervention, and that each agency identify the particular issue(s) or concern(s) that the agency intends to address as an intervening party.

The names and mailing addresses of the Council, all known parties, and their representatives appear on the following page.

Notice of Intention to Conduct a Prehearing Conference.

Shortly after the deadline for petitions for intervention, the Council intends to hold a prehearing conference to consider the petitions and other scheduling matters. The Council will provide notice of the time and date for this conference once the actual deadline for filing petitions to intervene is known.

Other Opportunities for Public Participation

Besides formal intervention, public participation in the EFSEC process is accommodated in several additional ways: first, under RCW 80.50.080, the Counsel for the Environment represents "the public and its interest in protecting the quality of the environment"; second, RCW 80.50.090(3) affords an opportunity for members of the public to present testimony in the hearing without having to intervene formally. In addition, the public has the opportunity to participate in the environmental review portion of the Council's process through comments on the draft environmental impact statement.

When evidentiary hearings begin, the Council plans to schedule specially-designated sessions for the purpose of receiving the testimony of members of the public, at one or more times and places to be set by later notice of hearing. The Council will maintain a copy of current records of the hearing at its offices in Olympia for the use of persons who may wish to review them. Ms. Mary Barrett has been designated as Counsel for the Environment by the Attorney General under RCW 80.50.080 to represent the public and its interest in protecting the quality of the environment. Persons wishing to contact Counsel for the Environment may use the EFSEC address below, or may contact her directly at the address or telephone number listed on the following page.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this _____ 8th _____ day of February, 2000

Allen J. Fiksdal, EFSEC Manager

Sumas Energy 2, Inc. Applicant:

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Address Inquiries to:

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Olympia, WA 98504-0100

Phone: (360) 664-2475
Fax: (360) 586-7671

Address Inquiries to:

Energy Facility Site Evaluation Council
Mr. Allen J. Fiksdal
EFSEC Manager
Energy Facility Site Evaluation Council
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Olympia, WA 98504-3172

Phone: (360) 956-2252
Fax: (360) 956-2158

Note: Parties petitioning to intervene must serve petitions to all of the above addresses.